

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHERRI L. MUNSON,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 12-12201
Honorable Patrick J. Duggan

OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE'S MARCH 1, 2013 REPORT AND RECOMMENDATION; (2) GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT; AND (3) DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

On May 18, 2012, Plaintiff filed this lawsuit challenging a final decision of the Commissioner denying Plaintiff's application for social security benefits. On that date, this Court referred the lawsuit to Magistrate Judge Laurie J. Michelson for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 4.) The parties subsequently filed cross-motions for summary judgment. On March 1, 2013, Magistrate Judge Michelson issued her R&R recommending that this Court grant in part and deny in part Plaintiff's motion, deny Defendant's motion, and remand the matter for further proceedings pursuant to 42 U.S.C. § 405(g). (ECF No. 18.)

In her R&R, Magistrate Judge Michelson concludes that the administrative law

judge (“ALJ”) did not fully consider the treating-source weighting factors listed in the social security regulations when dismissing the opinion of Plaintiff’s treating physician, Dr. Brian Chodoroff. (*Id.* at 15-17.) Magistrate Judge Michelson further concludes that the ALJ instead gave substantial weight to the opinion of Charles Rausch, a non-physician who reviewed Plaintiff’s file and completed a functional capacity assessment for Michigan’s Disability Determination Services, and that this was error because Mr. Rausch was a single decision maker. (*Id.* at 17-18.) At the conclusion of the R&R, Magistrate Judge Michelson advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at 20.) She further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.*) No objections to the R&R were filed.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Michelson. The Court therefore adopts Magistrate Judge Michelson’s March 1, 2013 Report and Recommendation.

Accordingly,

IT IS ORDERED, that Plaintiff’s motion for summary judgment is **GRANTED IN PART AND DENIED IN PART**;

IT IS FURTHER ORDERED, that Defendant’s motion for summary judgment is **DENIED**;

IT IS FURTHER ORDERED, that the decision of the Commissioner is reversed and this matter is remanded to the Commissioner pursuant to sentence four of 42 U.S.C.

§ 405(g).

Dated: April 26, 2013

s/PATRICK J. DUGGAN

UNITED STATES DISTRICT JUDGE that

Copies to:

Matthew F. Taylor, Esq.

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Magistrate Judge Laurie J. Michelson